In re application of: §

     Trung T. Doan   § Group Art Unit: 1763
                   §
Serial No.: 09/652,713   § Examiner: S. MacArthur
                   §
Filed: August 31, 2000   § Atty. Docket: 93-0421.04
                   §
For: CHEMICAL DISPENSING SYSTEM FOR §
SEMICONDUCTOR WAFER PROCESSING §
_____ §

REPLY TO THE EXAMINER'S ANSWER DATED JUNE 3, 2004

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant herein replies to the Examiner's Answer dated June 3, 2004.

I. Section 5 of Examiner's Answer

Section 5 of the Examiner's Answer addresses Applicant's summary of the invention. Applicant notes that the Examiner admitted the summary to be "generally correct." The relevance of the Examiner's admission is explained below in part III.

II. Section 6 of Examiner's Answer

Section 6 of the Examiner's Answer addresses the issue on appeal. The Examiner agrees with Applicant's statement of the issue but then articulates a different issue. Applicant contends the

issue on appeal is whether the Examiner had the authority to reconsider the Board's new rejection; the Examiner indicates the issue is whether the claims are definite.

III. Section 10 of Examiner's Answer

Section 10 of the Examiner's Answer contains the response to Applicant's arguments. The response indicates that the Examiner has reconsidered the rejection raised by the Board. (Answer at p. 4, part A, B.) In doing so, the Examiner appears to have acquiesced to Applicant's argument favoring the Examiner's authority to reconsider the Board's rejection. As a result, the Examiner has resolved the appealed issue in Applicant's favor.

Nevertheless, Applicant contends additional indications from the Examiner warrant further action from the Board. Specifically, although the Examiner claims to have reconsidered the §112, ¶2 rejection, nothing in the Answer demonstrates such reconsideration. The Answer's Section 10 primarily contains unsupported announcements concerning (1) reconsideration and evaluation (*id* at parts A and B); (2) disagreement with Applicant's arguments (*id* at part E); (3) retention of previous positions (*id* at part D); and (4) conclusions that the claims are indefinite (*id* at parts A, B, D, and E). The Answer's "reconsideration" also fails to address the additional fact that the ordinary artisan would gain further support for definiteness from the Specification. Applicant specifically cited such support at p. 9 of the Appeal Brief and in the Summary of the Invention, which the Examiner has now admitted to be correct (Answer at p. 3, part 5).

Further, nothing in the rest of prosecution history demonstrates the Examiner's reconsideration of the §112, ¶2 rejection. The Examiner has had two chances to timely reconsider the §112, ¶2 rejection – in the Office Action dated 11/14/03 and the Advisory Action dated 12/29/03 – yet instead chose to deny the authority to reconsider. The sole instance of the Examiner setting forth substantive §112, ¶2 arguments occurs in an untimely Office Action (dated 3/11/04 -- after the Notice of Appeal) that merely parrots the Board's decision dated 7/29/03. Such "reconsideration" fails to address the facts that (1) the Board's dictionary citation does not support the Board's argument; and (2) the Board's dictionary, at least one other dictionary, other references (all of which would be known to one of ordinary skill in the art), and the Specification support definiteness. (*See* Appeal Brief at p. 5-9.)

At this late date, the Examiner's continued failure to actually reconsider the §112, ¶2 rejection, even after finally acknowledging the authority to do so, favors the Board's addressing the §112, ¶2 issue rather than remanding to the Examiner. Applicant previously raised this contention in the Appeal Brief (p. 5-9), citing prosecution economy/efficiency. The Examiner attempted to address this in the Answer by arguing that prosecution economy does not override the statutory requirement for definiteness. (Answer at p. 4, part 10(C).) Applicant contends that, for the reasons just stated, prosecution economy favors the Board overriding the Examiner; and the arguments presented in the Appeal Brief favor the Board overriding the indefiniteness rejection.

IV. Conclusion

The Answer indicates agreement with Applicant that the Examiner had the authority to reconsider the Board's §112, ¶2 rejection. The Answer also concludes that the claims are indefinite but offers no supporting arguments. A review of prosecution history demonstrates that at no time has the Examiner actually reconsidered the Board's §112, ¶2 rejection; rather, the Examiner has merely repeatedly avoided reconsideration, repeated the Board's rejection, and repeated the bare conclusion of indefiniteness. Applicant submits that the facts and arguments presented previously and above support a finding of definiteness, as does the Examiner's admission concerning support in the Specification. In addition, prosecution economy and efficiency favor the Board (rather than the Examiner) considering such arguments, withdrawing the §112 rejection, and addressing the §102 rejection. Still further, the arguments presented in the Appeal Brief from two years ago support the novelty of the claims, thereby favoring the Board's withdrawal of the §102 rejection as well. Accordingly, Applicant respectfully requests that the Board withdraw all rejections.

Respectfully submitted,

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6/28/14

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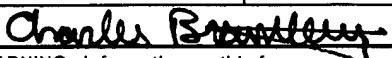
☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 0

Complete if Known	
Application Number	09/652,713
Filing Date	August 31, 2000
First Named Inventor	Trung T. Doan
Examiner Name	S. MacArthur
Art Unit	1763
Attorney Docket No.	93-0421.04

METHOD OF PAYMENT *(check all that apply)*

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1. BASIC FILING FEE

Large Entity Fee Code	Fee ($)	Small Entity Fee Code	Fee ($)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filling fee	

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2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	2	-20 ** =	0	X 18	=	0
Independent Claims	1	-3 ** =	0	X 86	=	0
Multiple Dependent				X	=	0

Large Entity Fee Code	Fee ($)	Small Entity Fee Code	Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

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3. ADDITIONAL FEES

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1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive – unavoidable	
1453	1,330	2453	665	Petition to revive – unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

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SUBMITTED BY

			Complete *(if applicable)*	
Name (Print/Type)	Charles Brantley	Registration No. (Attorney/Agent)	38,086	Telephone	208-368-4557
Signature	Charles Brantley		Date	6/30/4

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